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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,976	03/22/2004	Claus Pedersen	855.0006.U1(US)	1357
29683 7590 02/09/2009 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			EXAMINER DAYE, CHELCIE L	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 02/09/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/805,976</p>	<p>Applicant(s) PEDERSEN, CLAUS</p>	
	<p>Examiner CHELCIE DAYE</p>	<p>Art Unit 2161</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Etienne P LeRoux/
Primary Examiner, Art Unit 2161

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant continues to argue that the Kotzin reference is concerned with "content", while the claimed subject matter is concerned with "service settings".

Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, primary reference Flanagin was used to teach "the partnership information includes configuration settings for services used by the user to transfer or copy data between the connected mobile device and the desktop computer as well as data necessary to perform a service...For example, a "Synchronization Service" is a service that specializes in the transfer of data between the connected mobile device and the desktop computer, including replications or automatic file copy. Other services include a file conversion service that converts files between the connected mobile device and the desktop computer (for example, when the user specifies that one or a plurality of files be separately copied) so that data files can be accessed by each respective application program residing thereon" (see col.4, lines 7-22) and also "the partnership information includes any unique settings for each unique type of mobile device being connected to the desktop computer" (see col.3, lines 48-52). Wherein, the preceding excerpts describe copying the descriptive data of the service settings from one device to another. Thus, the primary reference Flanagin was clearly relied upon for the disclosure of the service settings being argued. Next, the secondary reference Kotzin was incorporated to teach that the service settings (discussed within Flanagin) were provisioned by the service provider, and this is taught at paragraphs [0021-0022], wherein "The second device then retrieves the content from either the first device or the content provide...the source may also depend on the operations of the service provider serving the device which is receiving or sending the content...If the content is a relatively small set of information, such as a ring tone, contact information or an icon for example, then the content may be transferred directly from the first device to the second device. Larger files, such as media and multimedia files including audio, music, and motion pictures may be transferred from the content provider". The preceding excerpt teaches that a service provider or content provider is the one provisioning off the service settings from one device to another. As is well known within the art a "service provider" is a company who provides a specific internet related services or a company that provides mobile phone users with services and subscriptions to mobile phone networks, or simply a provider that provides services. Thus, the combination of Flanagin in view of Kotzin, disclose service settings and provisioning the service settings by a service provider. Even further, in response to applicant's specific argument that the "content" used in Kotzin is not concerned with the claimed subject matter of "service settings" is improper since for one it would have been obvious to one of ordinary skill in the art to understand that the service provider described within Kotzin would have the ability to provision the service settings described within Flanagin. Also, for argument sake Kotzin does discuss an example of the content being larger files such as media and multimedia files including audio, music, and motion pictures (see [0022]), wherein the multimedia files correspond to the service settings as described within applicant's own specification as being for multimedia messaging (see [0023-0024]); since it is understood by one of ordinary skill in the art at the time of the invention that if the reference can have multimedia files of different types of information/data then one of the types of information could also be multimedia messaging.

Applicant argues, Kotzin does not describe the claimed "wherein copying data comprises copying a data file stored at the first portion of the hierarchical data structure that is associated with an identifier stored in a first smart card", because Kotzin has to do with bar codes and scanners.

Examiner respectfully disagrees. Kotzin does not only have to do with bar codes and scanners, however, it is understood within the art that the scanners of the Kotzin reference scan the information needed and stores the information within a memory card (i.e. smart card). The function of scanning is a form of the copying the data.

Applicant argues, Kotzin mentions "uniquely identifiable set of information" but it is not seen what is used to identify the "uniquely identifiable set of information" and therefore Kotzin does not teach the limitation of claim 3.

Examiner respectfully disagrees. Claim 3 merely states "the copied data file comprises the identifier". Paragraph [0023] of Kotzin is relied upon for the teachings of a uniquely identifiable set of information that is stored in a SIM card, flash card, or other removable memory. Showing that there is an identifier associated with the copied data file in a first smart card as required by claim 2 (of which claim 3 is dependent upon). As such, the applicant's argument that "it is not seen what is used to identify the information" is irrelevant for the scope of the claim, since claim 3 is further limited upon claim 2, which disclosed the copying of the uniquely identifiable set of information (which, it would be obvious to one of ordinary skill in the art that uniquely identifiable information could merely consist of an "identifier").

Applicant argues, the issues addressed above with respect to the content not being equally applicable to service settings as argued in claim 1, applied to claim 9.

Examiner respectfully disagrees. See the response above.

Applicant argues, Kotzin does not disclose "wherein the copied data includes data identifying user selections made during user configuration of the first service", because Kotzing speaks in generalities and is not specific enough.

Examiner respectfully disagrees. The relied upon paragraph [0018] of Kotzing specifically states "to transfer the content between a first device and a second device, the user selects the desired content to be transferred". It is clear that the user selects what is to be copied. Thus, it is obvious that since Flanagin supports each mobile device being individually configured as desired by the user, that the combination of the references teaches the invention as a whole.

Applicant argues, the relevance of bar codes and scanners have nothing to do with subject matter of claim 27.

Examiner respectfully disagrees. Paragraph [0028] discusses the bar codes and scanning as a way of disclosing the operation of reading data from the device and housing the information within the memory card (i.e. smart card).

Applicant argues, it is not seen where Kock describes "the copied data file is usable, at the first device, as settings for a first service when the first smart card is used with the first device".

Examiner respectfully disagrees. Kock teaches when a SIM card has been moved from one mobile device to another, the status list may need to be updated for both mobile device (see [0052]). This means that when a SIM is input into a mobile device the settings for the device take on the characteristics/settings that are specified on the SIM; thus disclosing the usability of the smart card.

Applicant argues, Cooper does not teach "wherein the user of the first device is unable to amend the copied data" because the operations performed in Cooper are by a client station and not by a user.

Examiner respectfully disagrees. Cooper teaches that a user uses the client station and executes control functions in the client station (see col.12, lines 47-57).